

Exhibit 1:

Second Declaration of Giancarlo Guzman

SECOND DECLARATION OF GIANCARLO GUZMAN

1. I am an Investigator in the Legal Department at the American Civil Liberties Union Fund (ACLU) of Michigan. I am also an active member of the National Association of Legal Investigators (NALI).

2. I earned my Bachelor's Degree from the University of Michigan, Ann Arbor, and my Master's Degree in Public Administration from the University of Michigan, Dearborn.

3. I have worked at the ACLU of Michigan since 2015 and have served as the legal department's in-house investigator for over eight years. I previously provided a declaration in this case about a survey I conducted to assess how consistently law enforcement agencies interpreted various requirements of Michigan's Sex Offenders Registration Act (SORA). *See* ECF No. 123-23.

4. Because I routinely conduct investigations on behalf of the ACLU of Michigan, the litigation team in *Does III* asked me to provide information about the tools and databases one can use to find information about a person's criminal history, including any past sex offense convictions.

5. I use investigative best practices to gather information about potential plaintiffs, witnesses, and other people as relevant to the ACLU's work. To ensure that I have a full sense of a person's background, these investigations can include

background checks to determine a person's criminal history, including convictions for sex offenses.

6. Because there are other sources of information which provide more comprehensive criminal history information, I almost never use the sex offender registry (SOR) when trying to determine if someone has a criminal history.

7. The tools I use include free or low-cost databases that are broadly available to the public. These tools can provide information not just about past convictions, but also about arrests and charges, as well as other information about a person's past conduct that might be relevant to someone who is looking for information about, say, a person's suitability as a babysitter.

8. As most internet users know, they can go to platforms like Google, DuckDuckGo, Instagram, Facebook, and LinkedIn and enter the name of a person they are looking for. These free internet searches provide information about a person's background. If the person has prior convictions, whether for a sex crime or other serious crime, that information may be included in search results through news articles about the offense or court records. In addition, these free or low-cost searches can provide address information about where a person lives or works.

9. There are also two "background check" resources created and maintained by the state, namely Michigan's Offender Tracking Information System

(OTIS) (<https://mdocweb.state.mi.us/otis2/otis2.html>), and Michigan's Internet Criminal History Access Tool (ICHAT) (<https://apps.michigan.gov/>).

10. In order to show what information is available on OTIS and ICHAT, as compared to the SOR website, I have attached—for the same person—redacted versions of the search results on the registry (Exhibit A), OTIS (Exhibit B), and ICHAT (Exhibit C). I also have attached the free search results for the same person on White Pages (Exhibit E).

11. OTIS is a free site that allows members of the public to access information about people who are currently incarcerated in the Michigan Department of Corrections (MDOC), are on parole or probation, or have been discharged off custody (whether from prison, parole, or probation) within the last three years. OTIS uses the following designations for those who are listed: “active offenders, prisoners, parolees, probationers, discharged, parole absconders, or probation absconders.” This can be seen in the screenshot below.

Michigan.gov Home | Contact MDOC | OTIS Help | MDOC's Most Wanted | Glossary | Disclaimer | MDOC Home

Last Name: All
 First Name: Active Offenders
 MDOC Number: Prisoners
 Sex: Parolees
 Race: Probationers
 Age: Discharged
 Offender Status: Parole Absconders
 Marks, Scars or Tattoos: Probation Absconders

Search | Clear Fields

In 2008, the Michigan Legislature permitted removal of offender's information from OTIS after three years had elapsed from the discharge date. If an offender resumes supervision with the MDOC, all public records will be available on the website until three years has again elapsed from the discharge date of the most recent MDOC jurisdiction or supervision term.

12. Members of the public can conduct a search on OTIS using just a person's last name, their MDOC number, or even by describing known scars, marks, or tattoos. OTIS includes a current photo, which allows the viewer to see what the person looks like. It also provides the person's height, weight, eye color, marks/scars/tattoos, any aliases used, and how long the person will be under MDOC supervision. *See Ex. B.*

13. OTIS also lists Michigan records of the person's current and past prison sentences, including the exact statutory offense, where and when it was committed, the sentencing date and the sentence, and the discharge date, if the person was discharged. *Id.* Unlike the registry, which only lists sexual convictions, OTIS includes convictions for all kinds of offenses. *Id.*

14. For people who are on probation or parole, OTIS lists their supervision conditions. For probationers and parolees in Michigan, OTIS provides the

geographic area to which the person is assigned, and a clickable link with contact information for the supervising office. A member of the public who has questions or concerns can thus reach out to the relevant probation or parole office. *Id.*

15. The other very useful tool to find someone's Michigan criminal history is ICHAT (Internet Criminal History Access Tool). An ICHAT search costs \$10. The state also provides free ICHAT searches for nonprofit and governmental organizations. *See Exhibit. D (ICHAT Frequently Asked Questions).* In addition, members of the public who cannot afford the \$10 fee and want to conduct a search for free can contact the Record Resource Section/Freedom of Information Unit at the Michigan State Police (MSP). *Id.*

16. The criminal history record generated by ICHAT provides a comprehensive overview of a person's Michigan criminal history.¹ It includes a chronological list of cases for which a person was fingerprinted and provides case information broken down by the stage of proceedings: arrest, charge, and judicial outcome. *See Ex. C.*

17. The "arrest segment" provides the date, arresting police department, and all alleged offenses. It includes both arrests that did, and did not, result in a conviction. The "charge segment" provides the date, prosecuting agency, and

¹ ICHAT is comprised of information from courts, prosecutors, prisons, and law enforcement officers across Michigan. *See Ex. D.*

charges. The “judicial segment” provides the date, court, charges, disposition, and sentence. *Id.*

18. ICHAT also gives the person’s race, height, weight, eye color, and age, as well as scars/marks/tattoos and “additional identifiers and comments.” *Id.*

19. In addition to OTIS and ICHAT, a host of private vendors provide online information about people’s backgrounds, with search results that cover all 50 states. These databases are broadly available to the public for free or at a low cost, and they include a wide variety of search options. For example, the vendor Intelius, which is available at low cost to users, has both a People Search function and an Address Lookup function. The People Search includes unlimited personal and address reports, as well as criminal, traffic, and court records. The Address Lookup includes neighborhood-level information, such as crime statistics and who lives in the neighborhood. Intelius currently provides a seven-day trial of the Address Lookup for about a dollar.

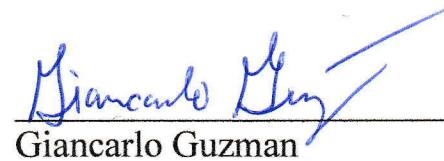
20. Another private vendor, the White Pages, generates extensive information in both their free and low-cost databases. Using the White Pages’ People Search feature, any member of the public can look someone up using their first and last name and either their zip code, city, or state. The free version of the White Pages then generates a list of people with that name, showing their name and city, their age range, cities with which they have been affiliated, addresses, and

employment information. *See* Exhibit E (White Pages Search Results). Users can also pay to generate background reports that provide more information, including current and past contact and address information, as well as criminal and other public records for jurisdictions across the country. The current charge is about \$12 per report.

CONCLUSION

21. There are numerous free and low-cost tools aside from Michigan's SOR that allow members of the public to learn about a person's background, including information about whether someone has committed crimes such as sex offenses.

I, Giancarlo Guzman, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.



Giancarlo Guzman

Dated: May 5, 2025